

# **SUNSHINE COAST AIRPORT PTY LTD**

# **CONDITIONS OF USE**

**August 2024**



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## 1. DETAILS

The Airport: Sunshine Coast Airport located at Marcoola, Queensland

The Airport Operator: Sunshine Coast Airport Pty Ltd (ACN 617 255 964) acting as trustee for Sunshine Coast Airport Trust which is referred to in these terms and conditions as Airport Operator

Postal Address: PO Box 9535 PACIFIC PARADISE Qld 4564

Registered Address: 10 Electra Lane MARCOOLA QLD 4564

Telephone: +61 1300 993 543

Email for Notices: [legal@sunshinecoastairport.com.au](mailto:legal@sunshinecoastairport.com.au)

Authorised Officer for Notices: Company Secretary

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Effective Date: 1 August 2024

## 2. USERS OF THE AIRPORT

- 2.1. All Aircraft Operators who access and use the Facilities and Services at the Airport (Users) are subject to the terms and conditions in these Conditions of Use (COU) (as amended from time to time) unless the Airport Operator has agreed to different conditions with a User in writing, including under an ASA.
- 2.2. Notwithstanding that a User has not signed an agreement which contains these COU, by accessing and using the Facilities and Services, a User shall be deemed to have accepted and be bound by these COU as in force at the time of use. A User's compliance with these COU is to be at their own cost.
- 2.3. By becoming or remaining a User each User is liable to pay the Charges in accordance with these COU.
- 2.4. These COU apply on and from the Effective Date.

## 3. PROVISION OF FACILITIES AND SERVICES

- 3.1. The Airport Operator will provide the Facilities and Services with all due care and skill, in accordance with and subject to these COU and all applicable Laws.
- 3.2. A User must only access and use the Facilities and Services for the Permitted Purpose.
- 3.3. The Airport is open to all Aircraft Operators and a User acknowledges that access to it and use of the Facilities and Services is provided to all on a non-discriminatory basis.
- 3.4. Given that the Airport is open to all Users, the Airport Operator has developed Common User Conditions. The Common User Conditions apply to a User's use of the Services.

#### **4. CHARGES**

A User must pay for access to the Airport and use of the Facilities and Services in accordance with this COU and at the rates set out in the Airport Charges and Fees. The Airport Charges and Fees can be found on the Airports website at [www.sunshinecoastairport.com.au](http://www.sunshinecoastairport.com.au).

#### **5. PERMITTED USE**

5.1. The Facilities and Services are provided to Users for the exclusive purpose of the Permitted Use being the conducting of a civil aviation business including without limitation:

- a) aircraft landing, taxiing and take-off
- b) processing of arriving or departing Passengers and their baggage
- c) loading or unloading of freight
- d) refueling, cleaning, performance of routine or minor maintenance and other ground handling activities; and
- e) the sole retail activities of the sale of tickets for carriage of Passengers on the User's Aircraft and the charging for excess baggage for checked in baggage.

5.2. A User must not access nor use the Airport, including the Facilities and Services for:

- a) undertaking any other retail activities other than those expressly permitted by these COU or as otherwise approved in writing by the Airport Operator (in its absolute discretion); or
- b) unless approved in writing by the Airport Operator, display of branding, advertising or signage either affixed to the Terminal or temporarily installed (including freestanding) within the Airport area.

#### **6. USE OF THE AIRPORT**

6.1. In addition to complying with these COU a User must also comply with:

- a) the Airport Operators Aerodrome Manual and any applicable Policies and Procedures
- b) the Airport Transport Security Program and the Aerodrome Emergency Plan
- c) the Airport's Safety Management System, as far as it is reasonably practicable to do so
- d) any restrictions (including without limitation any fly neighbourly policies) and/or noise abatement or noise management procedures that may be in place from time to time
- e) any reasonable conditions, instructions, orders, and directions issued by the Airport Operator from time to time including in relation to safety, security, or environmental matters
- f) any conditions, instructions, orders, and directions issued by a Department, Air Services Australia or by another relevant statutory or lawful authority or their employees, agents, or contractors from time to time
- g) any conditions, instructions, orders, and directions issued to User as published in Aeronautical Information Publication (AIP), En Route Supplement Australia, Notices to Airmen (NOTAM) or otherwise
- h) any applicable environmental Laws that may be in place from time to time and/or the Airports Environmental Policy
- i) all work, health and safety Laws that may be in place from time to time; and
- j) all applicable Laws relating to the Airport or the Permitted Use including without limitation the

Civil Aviation Act 1988 (Cth), the Civil Aviation Regulations 1988 (Cth), the Civil Aviation Safety Regulations 1998 (Cth), the Aviation Transport Security Act 2004 (Cth), the Aviation Transport Security Regulations 2005 (Cth), the Air Navigation Act 1920 (Cth) and the Air Navigation Regulations (1947),

copies of the above documents can be made available upon request.

- 6.2. A User must not do anything, and must make sure that its employees, agents, and contractors do not do anything, which causes or could cause the Airport Operator to fail to comply or observe any of the matters set out in this clause and COU.
- 6.3. A User agrees not to, and to make sure that its employees, agents, and contractors do not do anything which causes or could cause a nuisance or danger to other users of the Airport or causes or could cause either a hazard to safety or threat to security.
- 6.4. The Airport Operator reserves the right to prohibit any User from accessing the Airport including from using the Facilities and Services in its sole discretion for reasons of safety, security and environmental or if it feels that the User is in any way impeding the efficient operation of the Airport.

## **7. GENERAL LANDING CHARGE AND PARKING OF AIRCRAFT**

- 7.1. A User must pay for landing their Aircraft and for parking their Aircraft at the Airport.
- 7.2. The rates for these are set out in the Airport Fees and Charges document available on the Airports website.
- 7.3. Where parking follows immediately after a landing, parking charges are calculated from the time of landing to the time of take-off, less a discretionary allowance for taxiing where an actual time on stand is not available.

## **8. OPERATING AIRSIDE**

- 8.1. A User must not operate (including driving a motor vehicle) or provide services or conduct commercial operations airside or in a security restricted area, at the Airport, unless:
  - a) a User has the Airport Operators prior written approval
  - b) a User and its employees, agents or contractors hold a current and valid ASIC for use at the Airport, or has a current and valid VIC pass and is under the appropriate escort of an ASIC holder; and
  - c) a User has all necessary licenses, registrations, or permits.
- 8.2. It is the User's responsibility to obtain and maintain each of the above, and details about how to do so can be found on the Airports website.
- 8.3. Charges may apply depending on the licence, registration, or permit. See Airport Charges and Fees document which is available on the Airports website for further details.

## **9. GROUND HANDLING**

- 9.1. All Users wishing to park their Aircraft on the RPT apron are required to use a Ground Handler Agent. The exceptions to this are set out in the Airport Operators Aerodrome Manual.
- 9.2. Any person providing Ground Handling Services at the Airport needs to hold a license with the Airport Operator which shall include amongst other things commercial terms suitable to enable the person to have the necessary access to those parts of the Airport needed for Ground Handling Services.



- 9.3. A User is permitted to undertake its own Ground Handling Services provided it has a license. If a User appoints a Ground Handling Agent, then it is the User's responsibility to make sure that the Ground Handling Agent has a license with the Airport Operator.
- 9.4. A User must not use the Airport, or any part of it for weighing luggage and charging Passengers for excess baggage at the departure gate without the prior written approval of the Airport Operator.

## **10. AIRCRAFT, PLANT AND EQUIPMENT REMOVAL**

- 10.1. A User must always have the capability and resources available to move any of its parked aircraft, plant, or equipment to another position at the Airport or remove it from the Airport altogether.
- 10.2. If requested by the Airport Operator and subject to air traffic clearances the User must move or remove any of its parked aircraft, plant, or equipment from the Airport within any reasonable time specified by the Airport Operator.
- 10.3. If a User does not comply with a request under this clause, then the Airport Operator may move or remove from the Airport the applicable parked aircraft, plant, or equipment at the User's cost. If the Airport Operator moves or removes the applicable parked aircraft, plant or equipment, the Airport Operator will notify the User of:
- a) the date and time of the move or removal
  - b) where the applicable parked aircraft, plant or equipment has been, or is to be, moved to
  - c) the means used, or to be used, to move the applicable parked aircraft, plant, or equipment; and
  - d) any conditions that will apply to the recovery of the applicable parked aircraft, plant, or equipment.
- 10.4. The Airport Operator will make reasonable efforts to notify the User before moving any of its parked aircraft, plant, or equipment pursuant to this clause. If no notification is given before the parked aircraft, plant or equipment is moved or removed pursuant to this clause, the Airport Operator will notify the User as soon as reasonably practicable after the parked aircraft, plant or equipment has been moved.
- 10.5. The User will be liable for and shall indemnify the Airport Operator, its employees, agents, contractors, directors, and officers against any liability or Loss arising from, caused, or contributed to a User's failure to comply with a request under this clause (including any injury, death or Loss caused or contributed to by the Airport Operator while moving or removing the parked aircraft, plant, or equipment).

## **11. INTERRUPTIONS TO AIRPORT SERVICES**

- 11.1. The Airport Operator may close or be directed to close the Airport or any part of it or interrupt or shutdown a Facility or Service at any time if required by Law or relevant statutory or lawful authority or if the Airport Operator believes it necessary, including to deal with an emergency or a safety, security, or environmental incident. The Airport Operator will use all reasonable endeavors to:
- a) give a User reasonable notice of the closure, interruption, or shutdown in these circumstances, but the User acknowledges that in some circumstances this may not be possible; and
  - b) minimise (where reasonable) the effect of any such unplanned closure, interruption, or shutdown on the User.
- 11.2. The Airport Operator may close or be directed to close the Airport or any part of it or interrupt or shutdown a Facility or Service at any time if the Airport Operator believes it necessary for repair,

maintenance, development, redevelopment, building, or construction work or for extenuating circumstances such as a natural disaster or emergency. The Airport Operator will use all reasonable endeavours to:

- a) issue a NOTAM (when applicable)
- b) give prior notice by e-mail or other means of such closure, interruption, or shutdown to Users; and
- c) seek to minimise the effect of any such closure, interruption, or shut down upon Users.

11.3. The Airport Operator will not be liable for any Loss the User may suffer or incur as a direct or indirect consequence of a planned or unplanned closure, interruption, or shutdown of the Airport.

## **12. AIRPORT SECURITY AND EMERGENCY RESPONSE**

12.1. The Airport Operator is responsible for conducting security and emergency exercises and training under its Airport Transport Security Program (TSP) and Airport Emergency Plan (AEP).

12.2. The Airport Operator may require a User or its employees, agents, or contractors to participate in such exercises or training. The Airport Operator will give a User reasonable prior notice when these exercises and training will be conducted.

12.3. If a User is not otherwise directed by the Airport Operator that it must participate, the Airport Operator strongly recommends that a User sends a representative.

## **13. AIRPORT COMMITTEES**

13.1. The Airport Operator has established the following committees as set out in this clause to assist in the management of security, safety, and environmental matters. Airport Operator recommends that a User attend meetings of these committees:

- a) Airport Security Committee
- b) Airside Safety and Wildlife Hazard Management Committee
- c) Airport Emergency Committee

13.2. Only one (1) representative per User is allowed unless the Airport Operator agrees otherwise. Each User needs to notify the Airport Operator if there are changes to the representative prior to the meeting. Approval to attend committee meetings will be at the sole discretion of the Airport Operator.

## **14. BUILDING WORKS**

14.1. Before a User may undertake any construction, development, or modification anywhere at the Airport (together Building Works) consent must be obtained from the Airport Operator.

14.2. In addition to the above if the Building Works are in a restricted or controlled area or which may impact the security or safety of a restricted or controlled area of the Airport, the User must first have security clearances and approvals from the relevant Department and, if applicable, Air Services Australia.

14.3. Where reasonably necessary, the Airport Operator (or the Department or Air Services Australia as applicable) may require the User to have security personnel supervising any Building Works. Alternatively, the Airport Operator may provide such security personnel and invoice the User for the reasonable costs and expenses (on a full recovery basis).

14.4. If there is a failure in security or a breach of the Airport Operator's security requirements the Airport Operator may take any action as is reasonably necessary to rectify the breach with such



action being at the User's sole cost and expense.

## **15. FILMING AND PHOTOGRAPHY AT AIRPORT**

- 15.1. Should a User wish to conduct filming or photography at the Airport, advance approval is needed. Please contact Airport Operator for permission. Permission is needed so that the Airport Operator can facilitate the request, while making sure the Airport operates in a safe, secure and efficient manner.
- 15.2. Requests will be assessed on a case-by-case basis and the Airport Operator reserves the right to decline filming and photography requests for safety, security, or other operational reasons. When providing consent, the Airport Operator may also impose conditions including without limitation a requirement to:
  - a) provide evidence of current insurance policies
  - b) hold a current and valid ASIC for use at the Airport, or a current and valid VIC pass and is under the appropriate escort of an ASIC holder; and/or
  - c) have security personnel supervising the filming and photography.
- 15.3. Any filming or photography undertaken by a User will be at their own cost.
- 15.4. User agrees to release Airport Operator from any Liability associated with or connected to the filming or photography at Airport and Airport Operator will not be responsible for any Loss or damage to User except to the extent directly arising from the Airport Operator's negligence.
- 15.5. From time-to-time the Airport Operator undertakes filming or photography at the Airport and when doing so the Airport Operator will make efforts to notify applicable Users before doing so. Any personal information captured during filming or photography will be managed in accordance with the Airport Operators Privacy Policy.

## **16. INFORMATION TO BE PROVIDED**

- 16.1. A User shall provide to the Airport Operator, in such a form that the Airport Operator may from time to time reasonably determine, the information as set out in this clause.
- 16.2. The information is required not just for the purposes of calculating Charges but also to provide statistical data to assist Airport Operator monitor growth in activity, undertake future planning as well as efficiently manage the Airport.
- 16.3. The information required to be provided by a User before it accesses the Airport and uses the Facilities and Services is:
  - a) names, address, and contact details of User's business and key personnel
  - b) details of the type, registration and MTOW of each aircraft which is intended to be used
  - c) reasonable evidence that a User has security, safety and operational procedures that comply with Airport Operator's security, safety, and operational requirements as well as any applicable Laws
  - d) evidence that adequate (in the Airport Operators reasonable opinion) emergency procedures in connection with all potential threats to passengers, freight and Facilities and Services are in place
  - e) inventory of all equipment that will be used/stored airside including details such as, make, model, registration (please note that this does not include items stored within leased

premises)

- f) confirmation that a User can meet the requirements set out in this COU
- g) summary details of ground handling and fueling arrangements for passengers and freight; and
- h) a timetable in respect of any RPT Operations a User intends to operate.

16.4. A User must promptly notify the Airport Operator of any changes to the information and/or if requested by Airport Operator provide up-to-date information of the same as per the timetable described in the request.

16.5. Where the Airport Operator requires information from the User for the purpose of calculating Aviation Charges the User must provide details of:

- a) in advance, for all the User's Aircraft accessing the Airport or using the Facilities or Services
  - i. airline
  - ii. aircraft type
  - iii. MTOW
  - iv. operating tyre pressure
  - v. aircraft registration number
  - vi. maximum passenger capacity; and
  - vii. confirmation that they have the equipment required or access to the equipment required to move/recover the aircraft in case of an emergency or other operational necessity.
- b) within 24 hours after each flight to or from the Airport by User's Aircraft:
  - i. the aircraft registration number of the aircraft
  - ii. the flight number
  - iii. the origin of the flight
  - iv. the destination of the flight
  - v. the date of the flight
  - vi. the scheduled time of arrival at, and departure from, the Airport
  - vii. the actual time of arrival at, and departure from, the Airport
  - viii. the maximum passenger capacity of the aircraft
  - ix. the total number of passengers on the flight (including Infants but excluding Operating Crew)
  - x. the total number of Transit Passengers on the flight (including Infants but excluding Operating Crew)
  - xi. the total number of Transfer Passengers on the flight (including Infants but excluding Operating Crew); and
  - xii. the amount of any freight carried on the flight (in tonnes).
- c) within 5 Business Days after the end of each month, passenger declarations in respect of that month.

16.6. If a User does not provide the information required under this clause within the timeframes set out, the User agrees that the Airport Operator may calculate the applicable Charges for that

month on the basis that the total number of passengers on each flight to or from the Airport during that month are equal to the maximum passenger capacity of each such Aircraft.

- 16.7. Any applicable Charges calculated on deemed passenger numbers will be recalculated based on actual passenger numbers within 6 months of the actual passenger numbers being provided by the User. Any overpayment will be credited against future Charges or refunded to a User.

## **17. AUDIT OF INFORMATION PROVIDED**

- 17.1. Users must keep up to date and accurate records of the information required to be provided under this COU for a period of at least 3 years from the date the information was created.
- 17.2. If requested by the Airport Operator a User must provide a certificate signed by a User's auditor certifying that the information provided in accordance with this COU is correct. Airport Operator must not ask for an auditor's certificate more than once a year unless Airport Operator has reasonable grounds for believing the information provided is misleading, inaccurate, or incomplete.
- 17.3. The Airport Operator may at any time cause a complete audit to be made of the records relating to a User's business by an auditor selected by the Airport Operator for the purposes of verifying the accuracy or otherwise of the information provided in accordance with this COU. The User agrees to promptly produce for inspection by the auditor all records and other information as may be reasonably required by the auditor concerning a User's business.
- 17.4. The auditor's report will be conclusive proof (subject to demonstrable error) of the correct Charges that should have been paid by a User.
- 17.5. If the auditor's report discloses that any Charges that were paid by User were inaccurate then the Airport Operator may, at its option, calculate the Charges that should have been paid by User and demand payment of any unpaid Charges and interest on those Airport Charges at the Interest Rate. Users may request repayment of any overpaid Airport Charges in writing from the Airport Operator.
- 17.6. The cost of any audit undertaken in accordance with this clause must be paid by User if the Charges paid by User on the basis of information given have been understated by more than 5% for any 12 month period and/or the auditor reports that, in their opinion, the records relating to a User's business are insufficient to enable a reasonable component auditor to make an accurate determination of the Charges.

## **18. PAYMENT OF CHARGES**

- 18.1. Every User must pay Airport Operator:
- a) Government Mandated Charges applicable to the Government Mandated Services provided to a User
  - b) Aviation Charges applicable to a User's use of Facilities and Services; and
  - c) all other applicable Charges.
- 18.2. Users must pay Charges without demand, set off, counterclaim, withholding or deduction.
- 18.3. All Charges are required to be paid within 30 days from the date of the monthly tax invoice sent to each User by Airport Operator by a direct deposit to Airport Operator Bank Account unless agreement has been reached in writing regarding other payment arrangements.
- 18.4. All Charges are to be paid in Australian Dollars.

- 18.5. If Users do not pay the Charges set out in a monthly tax invoice sent by Airport Operator when due, Airport Operator may charge, in addition to the Charges, interest on the daily balances of any unpaid amounts from the due date for payment calculated at the Interest Rate.
- 18.6. If Users do not pay the unpaid amounts and any accrued interest on the unpaid amounts within 30 days of the due date for payment the Airport Operator reserves the right to then seek payment of the unpaid amounts, additional interest on the daily balances of any unpaid amounts and accrued and unpaid interest on those unpaid amounts at a rate that reflects a genuine pre-estimate of the Airport Operators loss as determined by the Airport Operator.
- 18.7. If a User continues to fail to pay any Charges in accordance with this clause (or any a part of it) Airport Operator may refuse to give a User access to the Airport or use of the Facilities and Services until User has paid all Charges that are due and payable (including any interest) and any other costs, charges, or expenses reasonably incurred or suffered either directly or indirectly by Airport Operator.
- 18.8. If User does not pay the Charges as and when they fall due under this COU the Airport Operator will have the right to exercise a detention or lien over a User's Aircraft, plant or equipment in respect of which the Charges were incurred (whether or not they were incurred by the person who is the Aircraft Operator of that Aircraft, plant or equipment at the time when the right of detention or lien is exercised) and hold them until all such unpaid amounts (together with any interest charged in accordance with this COU) are paid.
- 18.9. The Airport Operator holds the Aircraft Owner and Aircraft Operator jointly and severally liable for the payment of all Charges (including any interest) incurred by an Aircraft Operator that accesses the Airport or uses the Facilities and Services and any other costs, charges, or expenses reasonably incurred or suffered either directly or indirectly by the Airport Operator.
- 18.10. If the Charges and all related interest are still not paid after the Airport Operator has exercised its right of detention or placed a lien over a User's Aircraft, plant or equipment then the Airport Operator may, without further notice to a User, and in any way it thinks fit, sell, remove or otherwise dispose of any Aircraft, plant or equipment referred to in this clause in order to satisfy the Charges, related interest and other amounts due.
- 18.11. The right of detention and/or lien is not lost because the relevant Aircraft has departed from the Airport and the right will continue and can be exercisable by the Airport Operator at any time when the relevant Aircraft is at the Airport.

## **19. GOVERNMENT MANDATED COSTS AND GOVERNMENT MANDATED CHARGES**

- 19.1. The Airport Operator administers Government Mandated Services at the Airport.
- 19.2. If there are Government Mandated Costs payable by the Airport Operator, then each User will be liable to pay for the same by paying the Government Mandated Charges.
- 19.3. Government Mandated Services Charge is set by the Airport Operator on an annual basis in advance, calculated by reference to anticipated use of the Airport during that period.
- 19.4. The User acknowledges that the Government Mandated Charges will be determined by the Airport Operator in accordance with the directions of the Commonwealth, the Department, the Minister, and any other relevant statutory or lawful authority however the Airport Operator reserves the right to alter Government Managed Charges from time to time in response to any change in such charges (or the basis on which they are payable) made by the Commonwealth or any change in the Airport Operator's costs of administering the Government Mandated Services. The Airport Operator will use reasonable endeavors to consult with Users before doing so and will provide at least 3 months' written notice of the changes to the Government Mandated Charges on the website before any such changes commence in effect.

- 19.5. The Airport Operator agrees to use reasonable endeavours to make sure that the Government Mandated Services are provided in an efficient and cost-effective manner.
- 19.6. If the Government Mandated Services are provided at the Airport by a person other than the Airport Operator, each User must, if required by the provider of those Government Mandated Services at the Airport, enter into an agreement with the provider of those Government Mandated Services on any terms and conditions reasonably required by the provider of those Government Mandated Services.

## **20. INCREASE TO CHARGES**

- 20.1. Without limiting the Airport Operators other rights under these COU, unless otherwise agreed with User in writing in a separate agreement, the Airport Operator may adjust the Charges (excluding Government Mandated Charges which are dealt with in clause 19) as follows:
- a) annually as and from 1 July every year (the “CPI Review Date”) in direct proportion to any increase in the CPI for the 12-month period between the CPI for the quarter ending immediately before the relevant CPI Review Date and the CPI for the quarter ending immediately before the CPI Review Date in the immediately preceding year; and
  - b) at any time, considering Airports own capital and operational costs, but before doing so will provide at least 3 months’ written notice of the changes the website before any such changes commences in effect.

## **21. GUARANTOR / BANK GUARANTEE / SECURITY DEPOSIT**

- 21.1. The Airport Operator may at any time in its sole discretion, acting reasonably, require the User to procure either a guarantor, bank guarantee, or security deposit in accordance with the terms of this clause.
- 21.2. If a guarantor is required by the Airport Operator, the User must procure the provision of a guarantee for a User’s obligations under these COU in a form acceptable to Airport Operator. This obligation is to be completed prior to the User accessing the Airport or using the Facilities and Services.
- 21.3. If a bank guarantee is required by the Airport Operator, the User must procure the provision of a bank guarantee for a User’s obligations under these COU. The bank guarantee must be unconditional, in favour of the Airport Operator with no expiry date for the amount agreed with Airport Operator. This obligation is to be completed prior to the User accessing the Airport or using the Facilities and Services.
- 21.4. If a security deposit is required by the Airport Operator, the User must pay the sum mutually agreed with Airport Operator before a User accesses the Airport or uses the Facilities and Services. The Airport Operator will deposit the security deposit in an interest-bearing account in the Airport Operators name for a period to be mutually agreed. The interest will be accumulated and added to the amount held by the Airport Operator as the security deposit. Airport Operator may use the security amount (and any accrued interest) to pay any overdue amounts under these COU and to recover its costs, expenses, and Losses (if any) due to User breach. Users must immediately replace any amount used. After the agreed term, Airport Operator must refund any part of the above security amount not needed to recover costs, expenses, and losses (excluding interest), which may not be identifiable or finally crystallised until sometime after termination.

## **22. INSURANCE**

- 22.1. Every User must, in connection with their access of the Airport, and their use of Facilities and Services maintain with reputable insurers the following insurances in the User’s name, and with

the Airport Operator noted as an additional insured for the Airport Operators respective rights and interests:

- a) public liability insurance for at least \$20 million
- b) adequate aviation liability insurance which at a minimum complies with the Civil Aviation (Carriers' Liability) Act 1959 (Cth) and any applicable equivalent state and territory legislation
- c) comprehensive motor vehicle insurance for all motor vehicles used by the User on the Airport
- d) aircraft hull insurance for all aircraft used by the User on an agreed value basis including war risks and allied perils for their full replacement value
- e) property insurance covering all the User's plant, equipment and other property at any time located or used at the Airport for its full replacement value
- f) workers' compensation insurance; and
- g) other insurances required by Law or reasonably required by the Airport Operator.

22.2. The User must make sure that all insurance policies taken out under this clause have no exclusions, endorsements or alterations unless first approved in writing by the Airport Operator and shall include principal's indemnity in favour of the Airport Operator covering any action, demand, liability, Loss, damage, or cost covered by any indemnity in these COU.

22.3. A User must promptly provide evidence of any insurance upon request from the Airport Operator. Failure to comply with this clause shall entitle the Airport Operator to terminate the User's access to the Airport and use of the Facilities and Services.

22.4. A User must not knowingly do anything that may make the Airport Operators insurance invalid, able to be cancelled, adversely affect Airport Operators rights or that may increase the insurance premiums.

22.5. The Airport Operator agrees to hold with a reputable insurer:

- a) public liability insurance for at least \$20 million
- b) workers compensation insurance; and
- c) airport owner and operators' liability insurance.

22.6. Users must notify the Airport Operator as soon as practicable if an insurance policy required by this clause is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with a User use of the Airport.

22.7. A User must not enforce, conduct, settle or compromise any claim under any insurance policy required by these COU (notwithstanding that any such insurance policy may also cover other property) if the claim relates to a User's use of the Airport without the Airport Operator's prior written consent (such consent not to be unreasonably withheld).

## **23. CUTE / CUPPS**

23.1. The Airport uses Common Use Terminal Equipment (CUTE), as its operating system and all Users will be required to access their respective Departure Control Systems (DCS) via the CUTE platform.

23.2. The Airport Operator is investigating introducing Common Use Self Service (CUSS). The Airport Operator reserves the right to introduce CUSS into the Airport and thereafter alter the operating platform at any time and from time to time. The Airport Operator will use its reasonable endeavours to consult with Users before doing so and will provide at least three (3) months' notice of the changes on the website before any such change commences in effect.



23.3. Costs associated with the provision of CUTE and/or CUSS by the Airport Operator will be recouped via the Charges.

## **24. INDEMNITY AND RELEASE**

24.1. The User accesses the Airport and uses the Facilities and Services at their own risk and expense. Any plant, equipment, consumables, and Aircraft brought onto the Airport or Facilities or used in connection with the Services are brought at the User's risk and the Airport Operator is not responsible for any Loss or damage to them except to the extent directly arising from the Airport Operator's negligence.

24.2. The User will be liable for and shall indemnify the Airport Operator, its employees, agents or contractors, directors, and officers, against any liability or Loss arising from, caused, or contributed to:

- a) a breach of these COU (including the Loss that results from the Airport Operator exercising its right to terminate these COU)
- b) damage, loss (to person or property), injury or death caused or contributed to by any act or omission
- c) any contamination of any description into or from any area of the Airport
- d) the User's access of the Airport and the use of the Facilities and Services
- e) the Airport Operator doing or causing to be done anything which the User must do under this COU but has not done
- f) any act or omission (including negligence, unlawful conduct, or willful misconduct); and
- g) any Claims brought by third parties because of the User's access of the Airport, and use of the Facilities and Services and these COU,

caused or contributed to by the User, its employees, agents, or contractors, other than to the extent that such liability, or Loss is directly caused by the negligence of the Airport Operator.

24.3. The User releases the Airport Operator from, and agrees that the Airport Operator is not liable for, any liability or Loss arising from, caused, or contributed to:

- a) any damage, loss (to person or property), injury or death of any person
- b) any Force Majeure Event affecting the Airport; and
- c) anything the Airport Operator is permitted or required to do under these COU,

unless and only to the extent that it was directly caused by Airport Operator negligence.

24.4. Each indemnity and release in these COU are continuing obligations, separate and independent from the other obligations of the parties and survives termination of these COU, for whatever reason. It is not necessary for a party to incur expenses or make payment before enforcing a right of indemnity conferred by this COU.

## **25. LIMIT OF LIABILITY**

25.1. The Airport Operators liability for breach of these COU is limited to:

- a) In the case of goods any one of the following:
  - i. The replacement of the goods or supply of equivalent goods; or
  - ii. The repair of the goods; or
  - iii. The payment of the cost of replacing the goods or of acquiring equivalent goods; or

iv. The payment of the cost of having the goods repaired.

b) In the case of services either of the following:

i. The supplying of services again; or

ii. The payment of the cost of having the services supplied again.

25.2. If a warranty of condition is implied under any legislation in connection with the goods and services the Airport Operator provides and it can be excluded, the Airport Operator excludes it to the maximum extent possible by Law and if the Airport Operator cannot exclude it, then the Airport Operator's liability for breach of that warranty or condition is limited to:

a) In the case of goods, any one of the following:

i. The replacement of the goods or supply of equivalent goods; or

ii. The repair of the goods; or

iii. The payment of the cost of replacing the goods or of acquiring equivalent goods; or

iv. The payment of the cost of having the goods repaired.

b) In the case of services: either of the following:

i. The supplying of services again; or

ii. The payment of the cost of having the services supplied again.

## **26. GOODS AND SERVICES TAX**

26.1. Words used in this clause that have a defined meaning in the GST Law have the same meaning as in the GST Law unless the context indicates otherwise.

26.2. Unless expressly included in this COU the consideration payable by the User under or in connection with this COU does not include GST.

26.3. To the extent that any supply is made under or in connection with this COU to a User is a taxable supply, then the User must pay, in addition to the consideration provided under this COU for that supply (unless it expressly includes GST) an additional amount equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The User must pay the additional amount at the same time as the consideration to which it is referable.

26.4. The User must pay any additional amount on account of GST to the Airport Operator without deduction or set-off and is payable by the user at the same time and in the same manner as consideration for that supply is payable under these COU.

26.5. If the Airport Operator makes a supply to the User which is subject to GST, the invoice which the Airport Operator shall issue will be in the form of a tax invoice.

## **27. PRIVACY AND DATA PROTECTION**

27.1. Without limiting this clause, each User agrees to provide the Airport Operator with any Personal Information the Airport Operator requires in relation to the User accessing the Airport or using the Facilities and Services including for one or more of the following purposes:

a) operating, administering and/or improving the Airport, Facilities and Services

b) dealing with queries, complaints, or incidents

c) facilitating travel

- d) disclosing matters to civil aviation regulatory agencies and other law enforcement agencies as required by law or in accordance with prudent civil aviation practice
  - e) calculation of Charges
  - f) analysing and considering information concerning Airport usage, passenger activity, flight paths and security procedures
  - g) disclosing information concerning the Airport and Airport usage to a third party for their use in considering whether to purchase whole or part of the business of operating the Airport or to purchase, lease or licence the whole or part of the Airport site
  - h) disclosing to contracted services providers, car park operators, debt collectors
  - i) marketing, research, statistical analysis, advertising, or promotions relating to or connect with the Airport
  - j) disclosing to the local Council in accordance with any leasing or other transaction documents
  - k) compliance with applicable Laws; or
  - l) with a third party or related entity in the case of an actual or proposed sale, transfer, or assignment of the whole, or part, of the Airport Operators business.
- 27.2. If requested by a User, and upon reasonable notice, the Airport Operator will provide access to an individual's Personal Information. The Airport Operator reserves the right to seek payment of its reasonable expenses relating to this request.
- 27.3. If a User provides Personal Information to Airport Operator on behalf of another person, then the User acknowledges and agrees that it will comply with the Privacy Act 1988 (Cth) in respect of the collection, use and disclosure of that Personal information.
- 27.4. The User consents to the Airport Operator disclosing Personal Information to any entity for any of the purposes set out in this clause.
- 27.5. In collecting, using, and disclosing any Personal Information the Airport Operator will comply with the provisions of the Privacy Act 1988 (Cth) and its privacy policy.

## **28. CONFIDENTIAL INFORMATION**

- 28.1. Each party acknowledges that all Confidential Information of the other party is and will be the sole and exclusive property of that other party.
- 28.2. Each party agrees to keep, and to make sure that its employees, agents, or contractors keep, Confidential Information confidential for a period ending on the fifth (5th) anniversary of the date of disclosure of that Confidential Information.
- 28.3. Each party must use their best efforts and must procure that their employees, agents, or contractors also use their best efforts to prevent third parties from gaining access to each other's Confidential Information, other than as permitted under these COU.
- 28.4. Each party must not and must procure that its employees, agents, or contractors do not, without the other party's prior written consent, copy, duplicate or otherwise reproduce any documents containing Confidential Information, except as is necessary to fulfil its obligations under these COU.
- 28.5. Confidential Information may only be disclosed:
- a) to employees, agents, and contractors in the course of their employment on a need- to-know basis
  - b) to advisers on a need-to-know basis

- c) to the extent that the Confidential Information is lawfully in a party's possession through sources other than the disclosing party
  - d) to the extent that such disclosure is required by law or a stock exchange
  - e) to the extent that such disclosure is required in connection with legal proceedings relating to these COU; or
  - f) to the extent that the Confidential Information is generally and publicly available other than because of a breach of confidence by the other party.
- 28.6. Any breach of the confidentiality obligations contained in these COU, must be notified immediately to the other party in writing.
- 28.7. A breach of this clause may cause the Airport Operator irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to other remedies that may be available, the Airport Operator may seek and obtain injunctive relief in respect of such a breach or threatened breach.
- 28.8. Each User acknowledges and agrees that the Airport Operator may use the Confidential Information that is provided to Airport Operator for business purposes including without limitation keeping third parties informed of the status of operations, aviation, and business of the Airport; for the purpose of delivery of the Facilities or Services; and/or for adhering to regulatory and or governmental agency requirements.
- 28.9. Nothing contained in this clause shall detract from or affect the rights or obligations imposed or arising under any ASA or other separate confidentiality agreement or undertaking entered between the parties.
- 28.10. The Airport Operator need not give a User information if it breached a confidentiality obligation the Airport Operator has, a Law or appropriate security restrictions. If the Airport Operator gives a User this information and asks that it keep it on a secure basis and only disclose it to authorised personnel, the User must comply with this request.

## **29. TERMINATION**

- 29.1. The Airport Operator may terminate a User's right to access the Airport and use the Facilities and Services:
- a) immediately if a User suffers an Act of Insolvency
  - b) Immediately by written notice if a User fails to provide evidence of insurance as set out in this COU promptly on request from Airport Operator
  - c) immediately by written notice if a User does not comply with a term within these COU and after having been given written notice to remedy the breach within a reasonable time in the circumstances (which, in the case of a failure to pay Charges in accordance with the timetables set out in this COU) a User:
    - i. fails to remedy any non-compliance that can be remedied; or
    - ii. fails to pay compensation for any non-compliance that cannot be remedied.
  - d) immediately by written notice if in the opinion of the Airport Operator, acting reasonably, the User is likely to or has operated in an unsafe manner or in a manner which materially impedes the security or efficient operation of the Airport and the Facilities and Services.

### **30. FORCE MAJEURE EVENT**

- 30.1. Non-performance by either the Airport Operator or a User of any of their respective obligations in accordance with these COU will be excused during the time and to the extent that performance is prevented wholly or in part, by a Force Majeure Event.
- 30.2. The party claiming that a Force Majeure Event has arisen for the purposes of this clause must:
  - a) promptly give written notice to the other party detailing the Force Majeure Event and extent of that party's inability to perform any of its obligations under these COU and the likely duration of such non-performance; and
  - b) take all reasonable steps to remedy or abate the Force Majeure Event.
- 30.3. Performance of any obligation affected by a Force Majeure Event must be resumed by the relevant party as soon as reasonably possible after the abatement of the Force Majeure Event.
- 30.4. The non-performance of obligations pursuant to this clause will not prejudice the rights of either party against the other in respect of any matter occurring under these COU prior to the Force Majeure Event.

### **31. DISPUTE RESOLUTION**

- 31.1. If there is a dispute arising out of or in connection with this COU (Dispute) neither party is permitted to commence any legal proceedings relating to the Dispute unless it has complied with this clause.
- 31.2. If a Dispute remains unresolved for a period of 20 Business Days, the Dispute must be referred to the Management Team and the parties must otherwise comply with this clause.
- 31.3. The Management Team must meet at a mutually agreed venue within 10 Business Days of the Dispute being referred to it under this clause (or such longer period as the parties may agree) to discuss the Dispute in good faith with a view to resolving the Dispute by agreement between the parties.
- 31.4. If the Dispute remains unresolved for 20 Business Days after the Management Team first met or should have met (or such longer period as the parties may agree), either party may refer the Dispute to the Chief Executive Officers of the parties.
- 31.5. If the Dispute has been referred to the Chief Executive Officers of the parties in accordance with this clause, the Chief Executive Officers of the parties must, within 10 Business Days of that referral, meet at a mutually agreed venue and discuss the Dispute in good faith with a view to resolving the Dispute.
- 31.6. If a Dispute remains unresolved within 60 Business Days after the Chief Executive Officers of the parties have met or should have met in accordance with this clause, the Dispute will be referred to mediation under the then current rules for mediation used by the Australian Commercial Disputes Centre in the nearest capital city to where the Airport is located. Unless otherwise agreed by the parties, the mediation will take place at the location of the Airport. Each party will bear their own legal and other costs and expenses in connection with the mediation.
- 31.7. Nothing in this clause prevents either party from commencing legal proceedings for urgent interlocutory relief.

### **32. NOTICES**

- 32.1. Unless expressly stated otherwise in these COU's, all notices, certificates, consents, approvals, waivers and other communications in connection with these COUs must be in writing, signed by an authorised officer of the sender and marked for the attention of the person identified in the 'Details' at the beginning of these COUs (in the case of the Airport Operator) or the person identified in the User's invoice or as otherwise notified by the User.
- 32.2. Unless expressly stated otherwise in these COUs, notices to Airport Operator must be:
- a) left at the address
  - b) sent by prepaid ordinary post (airmail if appropriate) to the address; or
  - c) emailed to the email address,
- all of which are set out on the page headed 'Details' at the beginning of these COUs (unless we have notified you of a different office address, postal address, or email address, in which case as last notified to you), and otherwise given in any other way permitted by law.
- 32.3. A notice will take effect from the time it is received unless a later time is specified in the notice.
- 32.4. If a notice is sent by post, that notice is taken to be received five days after posting (or ten days after posting if sent to or from a place outside Australia). Despite the aforementioned, if a notice is received after 4.00pm in the place of receipt or on a day which is not a Business Day, it is taken to be received at 9.00am on the next Business Day.
- 32.5. If sent by email, a notice is taken to be received on the earlier of the sender receiving an automated message confirming delivery or, provided no automated message is received stating that the email has not been delivered, three hours after the time the email was sent by the sender, such time to be determined by reference to the device from which the email was sent.

### **33. GENERAL**

- 33.1. Each condition of these COU shall be construed as a separate and severable contract term, and if one or more parts is held to be invalid, unlawful, or otherwise unenforceable, the remaining parts shall remain in full force and effect.
- 33.2. The failure, delay, relaxation, or indulgence on the part of any party in exercising any power or right conferred upon that party by these COU does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under these COU.
- 33.3. These COU do not create a partnership, joint venture or principal and agent relationship between the parties. Unless otherwise expressly stated a party does not have the authority to bind any other party or act as agent for any other party.
- 33.4. Any provision of these COU which is capable of operating following the expiration or sooner determination of these COU will continue to remain in full force and effect.
- 33.5. An obligation of two or more people binds them jointly and severally.
- 33.6. The User will be accountable for compliance with these COU whether these activities are undertaken by it, its employees, agents or contractors, Ground Handling Agent or otherwise.
- 33.7. These COU are to be governed by the laws of Queensland and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland.
- 33.8. The Airport Operator reserves the right to alter or replace these COU at any time and from time to time. The Airport Operator will use its reasonable endeavours to provide at least three (3) months' notice of the changes to these COU by displaying it on the website before any such changes commence in effect.



## 34. DEFINITIONS AND INTERPRETATION

### 34.1. Definitions

In these standard conditions, the following words have the meanings below:

**Act of Insolvency** means an event that occurs in any of the following circumstances:

- an application is made to the court for an order, or an order is made that a User is to be wound up
- an application is made to the court for an order appointing an administrator, liquidator, or provisional liquidator in respect of a User, or one of them is appointed, whether or not under an order
- a User enters into a deed of company arrangement or scheme of arrangement with all or any class of its creditors
- a User resolves to wind up, or otherwise dissolve and notice of a User intention has been given to do so
- a User state that they are insolvent
- as a result of the operations of section 459F of the Corporations Act 2001 (Cth) (the Act) a User is taken to have failed to comply with statutory demand
- a User made a statement from which it may reasonably be deduced by Airport Operator that the User is subject of an event described in section 459C(2) of the Act
- A User are the subject of an event described in section 459C(2) of the Act; or
- anything analogous having a substantially similar effect to any of the events specified above happens under the law of the applicable jurisdiction.

**Air Services Australia** means the body established pursuant to the Air Services Act 1995 (Cth).

**Aerodrome Emergency Plan** means a plan developed and amended from time to time by the Airport Operator to coordinate all agencies (and their individual airport emergency procedures) and State or area supporting plans for dealing with an Airport emergency in respect of a licensed airport setting out, in the approved form, particulars of and operating procedures for the Airport.

**Aeronautical Information Publications (AIP)** means a publication issued by or with the authority of a state and containing aeronautical information of a lasting character essentially to air navigation.

**Aircraft** means and includes fixed wing aircraft, helicopters, balloons powered or un-powered and their parts and accessories, equipment, and stores.

**Aircraft Operator** means the person whose name appears on the Aircraft Register as the operator of the Aircraft, the holder of the Certificate of Registration with respect to the Aircraft or any person who, with the authority of the holder of the Certificate of Registration for the Aircraft and the written acceptance of the Airport Operator, operates the Aircraft when it arrives at or departs from the Airport as the case may be.

**Aircraft Owner** means the person named on the Certificate of Registration for the relevant Aircraft.

**Aircraft Register** means the register of Australian Aircraft established pursuant to Regulation 8 of the CASR.

**Airports Safety Management Systems** means the Airport Operator systematic approach to managing safety and includes the necessary organisational structures, accountabilities, and procedures to facilitate a systematic, explicit, and comprehensive process for managing risks involving goal setting, planning, documentation, and measurement of performance against specific objectives.

**Airport** means the airport referred to in the Details section of these COU.

**Airport Operators Aerodrome Manual** means a manual required under CASR (as amended from time to time).

**Airport Transport Security Program** means the security program and measures in place from time to time for the Airport, which includes any security requirements imposed the Airport by the Department under the Aviation Transport Security Act 2004 (Cth) and the Aviation Transport Security Regulations 2005 (Cth) or any other relevant statutory or lawful authority.

**Allocation Rules** means the rules that govern the allocation of the Airport resources such as aircraft bays, baggage carousels, baggage handling systems, check-in desks, and boarding gates as detailed in Schedule 2.

**ASIC** means an Australian aviation security identity card.

**ASA** means a binding agreement between the Airport Operator and a User for the provision and use of Facilities and Services at the Airport.

**Aviation Charges** means the charges payable by a User that relate to the use of the Airport and provision of Facilities and Services.

**Bank Account** means the bank account held by Airport Operator and notified to User's from time to time.

**Business Day** means a day which is not a Saturday, Sunday or public holiday in Nambour, Queensland.

**CASA** means the Civil Aviation Safety Authority.

**CASR** means Civil Aviation Safety Regulations 1998

**Certificate of Registration** means a certificate issued pursuant to Regulation 13 of CASR.

**Charges** means collectively any, and all charges, fees or costs imposed by the Airport Operator under these COU including without limitation the Aviation Charges and the Government Mandated Charges.

**Claim** means and includes any action, proceeding, demand, costs, charges and expenses of whatsoever kind or nature.

**Common User Conditions** means the conditions for use of the terminal facilities at the Airport set out in Schedule 2.

**Commonwealth Government** means the Government of the Commonwealth of Australia.

**Confidential Information** means all information in whatever form provided to the other party or otherwise obtained by the other party (whether prior to or on or after the commencement of operation and effect of these COU) which:

- is not generally available to the public; or
- if generally available to the public, so became available to the public because of an unauthorised disclosure or otherwise by reason of a breach of confidence; or

- the party receiving it knows or ought to know whether it is confidential or proprietary.

**CPI** means the Consumer Price Index (All Groups) for Brisbane published from time to time by the Australian Bureau of Statistics or by the Commonwealth of Australia or by any other body authorised by the Commonwealth of Australia to do so.

**Department** means the relevant Commonwealth Department that has responsibility for the regulation of airports (or any part of it) in Australia from time to time.

**Dispute** has the meaning given to it in clause 31.

**En Route Supplement Australia (ERSA)** means a publication that contains information vital for planning a flight and for the pilot in flight.

**Environmental Policy** means the policy as amended from time to time that outlines the Airports guiding principles by which the Airport fulfils its social and corporate governance responsibilities relating to environmental management.

**Facilities** means those facilities as set out in Schedule 1.

**Force Majeure Event** means any acts of God, acts of any governmental or authority, war, acts of terrorism, national emergency, riots, civil commotion, fire, explosion, flood, epidemic or strikes, cyber security incident, or other event beyond the reasonable direct control of a party, which prevents, restricts or limits the performance obligations by that party pursuant to this COU and which could not have been prevented, overcome or remedied by that party acting prudently.

**Freight User** means an aircraft which is configured to only carry cargo and on which no fare paying Passenger is carried.

**Government Mandated Charges** means the charges payable by a User that relate to the recovery of the Government Mandated Costs.

**Government Mandated Costs** means the costs incurred or suffered by Airport Operator for providing to a User the Government Mandated Services which Airport Operator is permitted to be passed through to Users pursuant to a direction by the Minister.

**Government Mandated Services** includes the following services (the precise combination of which may change from time to time):

- Border Force
- Domestic and International Terminal Passenger screening
- Domestic and International Terminal Passenger checked bag screening; and
- other services required by the Commonwealth Government or other relevant statutory or lawful authority.

**Ground Handling Services** means the provision of all or some of the following services: Passenger check-in, passenger boarding facilitation, baggage handling, Aircraft cleaning and catering, Aircraft maintenance, marshalling and in some instances Aircraft engineering.

**Ground Handling Agent** means any person, firm or company appointed by the User to perform the handling functions of a Ground Handling Services

**GST** means goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply.

**GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**GST Law** has the same meaning as in the GST Act.

**Infant** means a person of the age of 2 years or less who does not occupy his or her own seat on the Aircraft.

**Interest Rate** means the interest rate which is two percent (2%) per annum above the highest overdraft rate charged by the Airport's principal bankers from time to time on unsecured overdrafts of one hundred thousand dollars (\$100,000.00) or such other sum as the Airport Operator determines is appropriate in its discretion.

**Land** means the Airport Lease Area which the Airport Operator is responsible for managing.

**Law** means any applicable statute, regulation, by-law, ordinance, or subordinate legislation in force from time to time anywhere in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the general law and equity as applicable from time to time.

**Loss** means and includes direct loss, indirect loss, consequential loss, economic loss, loss of profits, damage, including damage to business, any reference to the making of payment by the Airport Operator and a reference to the incurring of any expense by the Airport Operator.

**NOTAM** means a notice containing information essential to personnel concerned with flight operations but not known far enough in advance to be published by another means

**Management Team** means the committee established by User and Airport Operator comprising two senior executives and, and such other persons as may be mutually agreed.

**Minister** means a Minister of the Department.

**MTOW** means the maximum take-off weight certified for each aircraft operated by a user at the Airport.

**Operating Crew** means airline employees operating as flight or cabin crew on any aircraft arriving at or departing from the Airport.

**Operations Manual** means the manual setting out the rules and procedures for the airport.

**Passenger** means Terminal Passengers, Transfer Passengers and Transit Passengers of RPT Operators.

**Permitted Purpose** has the meaning set out in clause 6.

**Personal Information** has the same meaning as it does under the Privacy Act 1988 (Cth) (Privacy Act).

**Policies and Procedures** means any policies and procedures established by the Airport Operator from time to time in relation to its management and operation of the Airport.

**RPT Operations** means Regular Public Transport Operations which is the operation of an Aircraft for the purpose of an air service that:

- is provided for a fee payable by persons using the service
- is conducted in accordance with fixed schedules to or from fixed terminals over specific routes
- is available to the general public on a regular basis; and
- is defined in the Air Navigation Act 1920 (Cth).

**RPT Operator** means a person undertaking RPT Operations.

**Services** means those services as set out in Schedule 1.

**Tax Invoice** means includes any document or record treated by the Commissioner of Taxation as a tax invoice or as a document entitling a recipient to an input tax credit.

**Terminal Passenger** means a Passenger joining or leaving an Aircraft at the Airport.

**Transfer Passenger** means a passenger whose origin and destination is an airport, other than the Airport, serviced by a flight with a different flight number or flight code number.

**Transit Passenger** means a passenger whose origin and destination is an airport, other than the Airport, serviced by a flight with the same flight number or flight code number.

**User** means a person who uses Facilities and Services at the Airport, and to avoid doubt includes:

- a Freight User
- the relevant Aircraft Owner; and
- the relevant Aircraft Operator (where the Aircraft Operator is the agent of the Aircraft Owner).

**VIC** means a visitor identification card.

## 34.2. Interpretation

a) Unless expressed to the contrary:

- i. words importing the singular includes the plural and vice versa, any gender includes the other gender and other grammatical forms of defined words or expressions have corresponding meanings

b) A reference to:

- i. a person includes a firm, partnership, joint venture, unincorporated association, corporation, or other body corporate and a government or statutory body or authority and its legal personal representatives, successors, and assigns
- ii. a statute, ordinance, code, or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments, or replacements of any of them
- iii. a right includes a benefit, remedy, discretion, authority, or power
- iv. an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation
- v. “\$” or “dollars” is a reference to the lawful currency of Australia
- vi. this or any other document includes the document as varied or replaced and notwithstanding any change in the identity of the parties
- vii. references to parts, clauses, parties, annexures, exhibits, and schedules are references to parts and clauses of, and parties, annexures, exhibits and schedules to, these COU
- viii. anything (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and

c) Headings do not affect the interpretation of these COU.

d) Specifying anything in these COU after the words ‘including’, ‘includes’ or ‘for example’ or similar expressions does not limit what else is included unless there is express wording to the contrary.

## **SCHEDULE 1 – AVIATION SERVICES**

Facilities means any of the following:

- a) airside grounds including runways, access roads, curbside roadways, taxiways, and aprons
- b) airfield area including grounds and roads
- c) lighting including runway and apron floodlighting and landside lighting
- d) airside safety, security services and facilities
- e) aircraft parking
- f) visual navigation aids and nose-in guidance systems
- g) aircraft refueling infrastructure to parts of the apron
- h) utilities and other services to support airfield operations
- i) environmental hazard control
- j) landside area including access roads, terminal curbside roads, car parks and other facilities in landside areas and covered walkways
- k) signage both airside and landside; and
- l) Government Mandated Security Services.

Services means any of the following:

- a) check-in counters
- b) departure and holding lounges (but excluding commercially important persons lounges)
- c) security systems and services (including closed circuit surveillance systems)
- d) baggage make-up, handling and reclaim (including baggage handling system)
- e) public areas in the terminal including amenities
- f) seating and queueing areas
- g) waste disposal services including quarantine waste disposal
- h) covered airside walkways
- i) emergency and public address system
- j) flight information display systems
- k) utilities and other services necessary to support terminal operations
- l) Government Mandated Security Services
- m) directional signage; and
- n) toilets and fresh water supply for the User's passengers and staff.

For the avoidance of doubt the Airport Operator specifically notes that unless otherwise agreed in writing with a User the following services do not form part of the Services:

- a) rescue and firefighting services
- b) terminal navigation services



- c) en-route services
- d) meteorological services
- e) border control
- f) aircraft fueling services
- g) ground handling services
- h) engineering services
- i) office or commercial space
- j) commercial activities
- k) promotional activities
- l) priority gates and check in counters

Facilities and Services are provided to airlines for the Permitted Purpose. Use of the Facilities and Services does not include a licence, whether express or implied, for an airline to conduct commercial activities at the Airport.

## **SCHEDULE 2 – COMMON USER CONDITIONS FOR THE AIRPORT TERMINAL**

These Common User Conditions apply to the common user equipment at the Airport.

### **PART A: CHECK-IN AND BOARDING GATE COUNTERS**

- 1.1. Check-in and boarding gates counters (Counters) will be allocated by the Airport Operator subject to availability and based on a set of allocation guidelines or as per individual ASAs.
- 1.2. Charges apply, unless the Airport Operator agrees in writing, for the use of Counters at the Airport.
- 1.3. If the Airport Operator agrees that a User can use the Counters this automatically entitles a User to be able to use the Equipment (as defined below) provided that such use is in accordance with these Common User Conditions, or the reasonable instructions provided by Airport Operator.
- 1.4. Equipment means the following equipment:
  - a) Physical Check-In Counter and/or Service Desks
  - b) Boarding Gate Desks
  - c) Baggage Handling System
  - d) Weighing scales
  - e) Inject Conveyors
  - f) Transport Conveyor(s)
  - g) Flight Information Display System (FIDS)
  - h) Public Address (PA) System
  - i) CUTE; and
  - j) Common-use computers and peripherals with the SITA Flex network installed. Each counter includes a computer & monitor, keyboard & mouse, boarding pass and/or bag tag printer & laser A4 printer.
- 1.5. Users must leave Counters and the area surrounding it in a clean and tidy condition.
- 1.6. All rubbish (including bag tags, used bag tags and the bag tag backing paper) must be put into the bins provided and must not be dropped or left on Counters or Equipment. If a User does not comply with these requirements to the reasonable satisfaction of the Airport Operator, the Airport Operator may clean the Counter and surrounding area at User's cost.
- 1.7. Users must take all reasonable precautions when using the Counters to prevent unauthorised entry into restricted or secure areas of the Airport.
- 1.8. When leaving a Counter, whether temporarily or at the end of use, a User must leave the Counter in a secure condition and that all Counters and Equipment are logged off.
- 1.9. A User must make sure that staff operating the Equipment are trained to operate it safely and, in a manner, to avoid damage to it, to other property and to persons. A User shall remain responsible for the training of the User's employees, agents, or contractors.
- 1.10. Except to the extent that there is a malfunction in the Equipment caused by negligence of the Airport Operator, a User agrees to indemnify the Airport Operator, its employees, agents, contractors, directors, or officers for any Loss suffered by Airport Operator as a result of damage to the Equipment or Loss suffered or incurred by Airport Operator by a User, its employees, agents, or contractors.

- 1.11. User must take proper care of Equipment and follow reasonable directions for its use. User must tell Airport Operator immediately if any of Equipment is not working or has been damaged. Airport Operator will repair Equipment as quickly as practicable.

## **PART B: BAGGAGE HANDLING SYSTEM CONDITIONS**

- 1.1. Airport Operator will provide the Baggage Handling System for the Airport being the physical baggage handling system which transports baggage from the Check-in Counters along conveyor belts to the Baggage Make-up Area but does not include the other areas used to transport baggage to the aircraft.
- 1.2. For the avoidance of doubt the Baggage Make-up Area means the areas used to perform outbound baggage make-up from the Baggage Handling System onto transportation equipment and to the aircraft.
- 1.3. Airport Operator will allocate the Baggage Handling System in accordance with the allocation guidelines or as per individual ASAs.
- 1.4. A User must not do anything which may adversely affect the efficiency of the Baggage Handling System. If a User damages the Baggage Handling system in any way, a User will be liable for any Loss and must pay or reimburse the Airport Operator for the same.
- 1.5. A User recognises that parts of the Baggage Handling System represent an airside/landside boundary. Users are responsible for maintaining the integrity of this boundary when belts are servicing operations including luggage left on arrivals belts.
- 1.6. The Baggage Handling System (including injector belts) should never be left on or running when unattended. The last employee, agent or contractor of the User at the Check-in Counter must make sure that the Baggage Handling System is switched off with keys removed, and the baggage shutters are down.
- 1.7. Airport Operator will provide Users with information on the types and dimensions of baggage that are able to be processed through the outbound baggage system. Items that do not meet the baggage handling processing criteria will need to be facilitated through the out of gauge baggage facility.
- 1.8. To maintain the integrity of the airport's aviation security screening processes, fallback procedures may be implemented in the case of checked bag screening equipment malfunction. During these times manual handling contingencies may be implemented. A User may be required to assist manual handling of baggage through these procedures.
- 1.9. Except to the extent that there is a malfunction in the Baggage Handling System caused by negligence of the Airport Operator, a User agrees to indemnify the Airport Operator, its employees, agents, contractors, directors, or officers for any Loss suffered by Airport Operator as a result of damage to the Baggage Handling System or Loss suffered or incurred by Airport Operator by a User, its employees, agents, or contractors.

## **PART D: FIDS AND PA SYSTEM CONDITIONS**

- 1.1. The Airport Operator will provide the FIDS core system, which comprises the information display systems (including the central database, the distribution system, and the display devices in public areas) within the terminal.
- 1.2. A User must make sure that the information displayed on FIDS is current and accurate.
- 1.3. The information on FIDS is confidential information. A User must not disclose to any other airlines or persons information on FIDS (other than the information displayed in a public area) without the Airport Operators prior written consent.

- 1.4. The necessary data to generate a User's logo and other material in FIDS remains a User's property. A User warrants that it holds copyright in that logo and that use of the logo and other material does not breach anyone else's copyright or other intellectual property rights.
- 1.5. Airport Operator may install additional FIDS display panels to private areas nominated by User, provided User pay all costs of installing the connection and the cost of the display devices.
- 1.6. Airport Operator will provide a public address system throughout the terminal including microphones and localised control panels in airline lounges and microphones and control panels at the Check-in Counters and boarding gates.
- 1.7. A User must and shall procure that each of its employees, agents or contractors must comply with Airport Operators directions concerning the use of the PA System.
- 1.8. A User must act reasonably in the use of the PA system and must restrict announcements to whatever is operationally required.

### **SCHEDULE 3 – CHARGES**

All Charges listed in the Aviation Charges and Fees document found on the Airport Operator's website are the Airport Operator's best estimate of fair and reasonable prices that a court of competent jurisdiction would determine based upon the information available to the Airport Operator at the time the relevant charge is notified to Users (namely, the Effective Date), and are exclusive of GST.

All RPT charges are based on per passenger for both inbound and outbound.

The Airport Operator reserves its position to change the prices from time to time in accordance with these COU and further reserves its position to claim different prices should the Airport Operator issue legal proceedings in relation to the prices to be recovered from the User's use of Services at the Airport.